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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

NO. 308

LESTER G. MADDOX,
Appellant,

v.

GEORGE F. WILLIS, JR., ET AL.,
Appellees.

Jurisdictional Statement

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IN THE

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OCTOBER TERM, 1965

NO.

LESTER G. MADDOX,
Appellant,

v.

GEORGE F. WILLIS, JR., ET AL.,
Appellees.

Jurisdictional Statement

A.

This is an appeal from a final judgment of the United States District Court for the Northern District of Georgia, Atlanta Division, adjudging appellant guilty of civil contempt for violating a permanent injunction issued by that court. Said final judgment of contempt was entered February 5, 1965, but does not appear in official reports. A copy of said order of contempt, together with a copy of the court's findings of fact and conclusions of law are attached hereto. Earlier opinions in the same case are reported in

Willis v. Pickrick Restaurant, 231 F. Supp. 397, and *Willis v. Pickrick Restaurant*, 234 F. Supp. 179.

B.

(i) This suit was filed by the three named plaintiffs, all Negroes, for themselves and for the class consisting of all other Negroes, seeking an injunction restraining The Pickrick, a corporation, and Lester G. Maddox, the Manager of a large restaurant operated by said corporation in the City of Atlanta, from violating Sections 201 and 202 of the Civil Rights Act of 1964 in the operation of said restaurant by refusing to serve Negroes.

The United States was permitted to intervene upon certificate of the Attorney General and filed a "complaint in intervention", seeking the same relief. Following its intervention, the Attorney General filed the certificate required under Section 206 (b) of said act (where the Attorney General initiates the action), to the effect that in the opinion of the Attorney General "the case is of general public importance". The Attorney General also filed a request for a three-judge court, which is also provided for under Section 206 (b), where a proceeding is filed by the Attorney General. Treating the complaint in intervention of the United States in the same light as if the Attorney General had filed the suit initially, Hon. Elbert P. Tuttle, Chief Judge of the Court of Appeals for the Fifth Circuit, designated a three-judge court to hear and determine the case.

After hearing evidence upon the application for a temporary injunction, the three-judge District Court entered and filed an opinion and temporary restraining

order against the corporation and Maddox, as its agent, on July 22, 1964.

On August 13, 1964 the Pickrick Restaurant was closed down by defendant "The Pickrick", a corporation.

On August 20, 1964, the case came on for a hearing before the three-judge District Court upon separate motions of the defendants to dissolve the interlocutory injunction or, in the alternative, to stay the effective date thereof. Upon said hearing the plaintiffs, intervenor, and the defendants having stated in open court that no further evidence would be tendered by either party, and all parties having requested that the matter be treated as a hearing on the petition for final permanent injunction, the court on September 4, 1964 entered its order denying the motions of defendants, and also entered its order granting a final permanent injunction.

On September 28, 1964, defendant Lester G. Maddox was the sole owner of Lester Maddox Cafeteria which he opened September 26, 1964 upon a part of the premises formerly used by the Pickrick Corporation, said real estate being the property owned by Maddox and under a long-term lease to the Corporation, which lease was terminated and cancelled by the parties on the latter date. The defendant Maddox, appellant here, though previously conducting a restaurant business on these premises as President of Pickrick Corporation, did—after said injunction—conduct the same type of business on part of the same premises, but did so as an individual and not as an officer or agent of the corporation.

On September 28, 1964, the plaintiffs filed their motion for an order, and an Order of U. S. District

Judge F. A. Hooper, thereon, requiring Lester G. Maddox, The Pickrick, a corporation, and Lester Maddox Cafeteria to appear to show cause, among other things, why they should not be held in civil contempt of the Court's Order entered September 4, 1964, because of the denial of service to members of the Negro race at Lester Maddox Cafeteria on September 28, 1964.

On September 29, 1964, the intervenor filed its motion for an order, and Order of United States District Judge F. A. Hooper thereon, requiring the Pickrick Restaurant and Lester G. Maddox to appear to show cause, among other things, why they should not be held in civil contempt of the order of the court of September 4, 1964, for refusing on September 28, 1964 to admit certain named Negroes to the premises of the Pickrick Restaurant, which the motion alleged was being operated under the name of Lester Maddox Cafeteria.

Responses to each of said Motions and Orders were filed by the parties cited to show cause therein, respectively, on January 30, 1965, and hearing by the court on the motion (it treating them as a single motion) commenced February 1, 1965 and consumed practically three days.

(ii) The judgment sought to be reviewed was adverse to Lester G. Maddox, and was dated and entered February 5, 1965, and the Notice of Appeal to the Supreme Court of the United States was filed by Lester G. Maddox in the United States District Court for the Northern District of Georgia, Atlanta Division, on the 31st day of March, 1965.

(iii) The statutory provisions believed to confer on this court jurisdiction of the appeal is Section 206 (b) of Title II of the Civil Rights Act of 1964 (Pub. Law 88-352, 78 Stat. 214).

(IV) Cases believed to sustain the jurisdiction to hear and decide the appeal are:

NAACP v. ALABAMA, 357 U.S. 460.

GIBSON v. FLORIDA LEGISLATIVE INV. COM., 83 S. Ct. 889.

V. This case involves the question as to whether or not the Congress is empowered by the Constitution of the United States to enact Sections 201 (a) (b) 2, (c) 2, 203, 204 (a), 206 (a) (b) and 207 (a) of Title II of the Civil Rights Act of 1964. (78 Stat. 241). The pertinent text of said sections are hereto attached.

C.

(1) The following questions are presented by this appeal:

1. Does the final judgment of contempt entered February 5, 1965 against the defendant Lester G. Maddox deprive him of right of freedom of association, in violation of the provisions of Article I of the Amendments to the Constitution of the United States of America?

2. Does such judgment deprive said defendant of liberty or property without due process of law, or constitute the taking of private property of defendant for public use without just compensation, in violation of the provisions of Article V of such Amendments?

3. Does such judgment forcing the defendant to serve customers which he objects to serving, or to pay

$200.00 per day for his failure to serve such customers against his will, place the defendant in a condition of involuntary servitude in violation of the provisions of Article XIII of such Amendments, in the event he should serve such customers under coercion of said judgment in order to avoid the payment of such penalty?

4. Do the States have exclusive powers for domestic and local government, including the regulation of civil rights—the rights of person and of property—under the provisions of the Constitution of the United States and its Amendments?

5. Does the Constitution of the United States either expressly or by implication confer upon the government of the United States the power to grant or secure to all persons rights or privileges to be free from being discriminated against by an individual businessman, operating a private business, for any reason?

6. In the absence of the grant of such power to the United States government, is such power not reserved by the Constitution to the exclusive jurisdiction of the States?

7. Can any person, whether or not a citizen of the United States, and whether or not a citizen of one of the several States other than Georgia, upon coming into the State of Georgia, be granted privileges and immunities by the Congress which are not common to the citizens of Georgia under the Constitution and laws of Georgia by virtue of their being citizens of Georgia, or, is it within the exclusive power of Georgia to control the rights of its own citizens?

8. Does the Congress have the power to grant and secure to a citizen of one of the several States any

privilege or immunity while he is within the State of Georgia, which is not granted or secured to citizens of the State of Georgia under its Constitution and laws by virtue of their Georgia citizenship?

9. If, under the Constitution and laws of the State of Georgia, any Georgia citizen has the legal right to conduct a privately owned business having no connection with any innkeeper or common carrier, and has the legal right to select his customers for such business, and has the legal right to refuse other citizens of Georgia as customers for any reason whatsoever without incurring any legal liability for such refusal—does the Congress have the power to grant to all persons, including the citizens of other States, a federal right to become customers of such business, and to provide a federal cause of action for the enforcement of such federal right, without violating the provisions of Article IV, Section 2, clause I of the original Constitution, and the provisions of Articles IX and X of such Amendments?

10. Do the facts shown by the record in this case, and the law applicable thereto, render said judgment of February 5, 1965 an unconstitutional application to this defendant by the District Court of the provisions of Title II of the Civil Rights Act of 1964?

D.

STATEMENT OF THE CASE

This is an appeal from a final judgment of contempt against appellant Lester G. Maddox, as sole proprietor of Lester Maddox Cafeteria, entered by the United States District Court for the Northern District of Georgia, Atlanta Division, on February 5, 1965 adjudg-

ing the appellant, Lester G. Maddox, to be in contempt of the court for violating a permanent injunction entered by the court on September 4, 1964, enjoining the Pickrick, a corporation and Lester G. Maddox, its President and Manager, their successors, officers, attorneys, agents and employees, together with all persons in active concert or participation with them, from:

(a) Refusing to admit Negroes to the premises of the Pickrick Restaurant upon the same basis and under the same conditions that non-Negro members of the general public are admitted to the restaurant;

(b) Failing or refusing to sell food or meals and to provide service to Negro patrons upon the same basis and in the same manner that food, meals and services are made available to patrons of other races;

(c) Otherwise failing or refusing to make any of the goods, services, facilities, privileges, advantages or accommodations of the Pickrick Restaurant available to Negroes upon the same basis and under the same conditions that they are available to other races.

On August 13, 1964 the Pickrick Restaurant was closed down by defendant "The Pickrick", a corporation; on September 28, 1964 appellant Maddox was the sole owner of Lester Maddox Cafeteria which he opened on September 26, 1964 upon part of the premises formerly used by the Pickrick corporation. The appellant though previously conducting a restaurant business on these premises as President of the Pickrick corporation, did—after said injunction—conduct a restaurant business on said premises, but did so as an individual and not as an officer and agent of the corporation.

Upon the opening of the Lester Maddox Cafeteria

signs were posted at the entrance and elsewhere within the same as follows:

> "NOTICE: I do not offer to serve either (1st) integrationists, nor (2) interstate travelers, regardless of race, color, creed or national origin. A person entering this restaurant for service will be considered as representing to me that such person is neither an integrationist nor an interstate traveler. If such representation is believed to be false, service will be refused. Lester Maddox, Owner, Lester Maddox Cafeteria."

Pursuant to this policy, the appellant Maddox excluded from Lester Maddox Cafeteria several white "integrationists" and stated that he would serve Negroes in his cafeteria who were not integrationists.

The final judgment of contempt provides that if appellant shall refuse service to any person at the Lester Maddox Cafeteria, he shall pay a fine of $200.00 for each day that the restaurant or cafeteria has been open for business from the date of this Order to the date of such refusal, and all fines so imposed shall be cumulated for purposes of payment and collection.

Appellant appeals from said final judgment of contempt upon the ground that the same is unconstitutional as applied to appellant under the facts in this case, for all of the reasons set forth in his response to the rules for contempt filed by him in said cause on February 1, 1965.

Respectfully,
WILLIAM G. McRAE
Attorney for Appellant

2034 Bank of Georgia Building
Atlanta, Georgia 30303

APPENDIX

PERTINENT TEXT OF CIVIL RIGHTS ACT OF 1964, 78 STAT. 241.

TITLE II — INJUNCTIVE RELIEF AGAINST DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATON

"Sec. 201. (a) All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

"(b) Each of the following establishments which serves the public is a place of public accommodation within the meaning of this title if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

> (2) any restaurant, cafeteria, luncheon, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station; . . ."

"(c) The operations of an establishment affect commerce within the meaning of this title if . . . (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers or a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; . . ."

"Sec. 203. No person shall (a) withhold, deny, or attempt to withhold or deny, or deprive or attempt to deprive, any person of any right or privilege secured by section 201 or 202, or (b) intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person with the purpose of interfering with any right or privilege secured by section 201 or 202, or (c) punish or attempt to punish any person for exercising or attempting to exercise any right or privilege secured by section 201 or 202."

"Sec. 204. (a) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 203, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the person aggrieved and, upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the civil action without the payment of fees, costs, or security."

"Sec. 206. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1)

signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights herein described.

"(b) In any such proceeding the Attorney General may file with the clerk of such court a request that a court of three judges be convened to hear and determine the case. Such request by the Attorney General shall be accompanied by a certificate that, in his opinion, the case is of general public importance. A copy of the certificate and request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

"In the event the Attorney General fails to file such a request in any such proceeding, it shall be the duty of the chief judge of the district (or in his absence, the

acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

"It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

"Sec. 207. (a) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this title and shall exercise the same without regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law."

(Filed in Clerk's Office Feb 5 1965)

APPENDIX

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION.

GEORGE WILLIS, JR.
WOODROW T. LEWIS
ALBERT L. DUNN,
Plaintiffs

ROBERT F. KENNEDY,
Attorney General of the
United States,
Intervenor

vs

THE PICKRICK, a Corporation,
and LESTER G. MADDOX,
Defendants

CIVIL ACTION NO. 9028

ORDER OF COURT ON MOTION FOR CONTEMPT.

This is a motion for contempt by plaintiffs, and by the Attorney General of the United States as Intervenor, against the defendants, alleging primarily the violation of an injunction by a three-judge court entered September 4, 1964. This motion was filed September 29, 1964, but hearing continued at the request of the Attorney General pending a decision by the Supreme Court of the United States concerning the calidity of the Civil Rights Act of 1964. Again set for a hearing it was continued on motion of defendants in order to accord

them the time for preparation of a defense, this continuance having been agreed to by the plaintiffs.

The hearing on this motion commenced February 1st and consumed practically three days. The evidence is not in dispute—the questions of law concern primarily the effect of certain changes made by defendant Lester Maddox (president and sole stockholder of the Pickrick restaurant, a corporation) in the operations of the cafeteria subsequent to the date of the injunction, and the basis on which said defendant admittedly did refuse to serve the Negro plaintiffs and several other Negroes.

(1) The temporary injunction issued by this Court on July 22, 1964, and the permanent injunction issued on September 4, 1964, enjoined the Pickrick, Inc. and Lester G. Maddox from:

(a) Refusing to admit Negroes to the premises of the Pickrick Restaurant upon the same basis and under the same conditions that non-Negro members of the general public are admitted to the restaurant;
(b) Failing or refusing to sell food or meals and to provide service to Negro patrons upon the same basis and in the same manner that food, meals and services are made available to patrons of other races;
(c) Otherwise failing or refusing to make any of the goods, services, facilities, privileges, advantages or accommodations of the Pickrick Restaurant available to Negroes upon the same basis and under the same conditions that they are made available to other races.

The temporary injunction of July 22nd went into effect on August 11th, and continued until the permanent injunction was entered. Defendants had due and legal notice of the injunctions, which, by their terms, were

made applicable to "the defendants, their successors, officers, attorneys, agents and employees, together with all persons in active concert or participation with them."

In their responses filed February 1, 1965 defendants allege, and the proof shows, the following:

On August 13, 1964 the Pickrick Restaurant was closed down by defendant "The Pickrick", a corporation; on September 28th defendant Maddox was the sole owner of Lester Maddox Cafeteria which he opened on September 26th upon a part of the premises formerly used by the Pickrick Corporation, said real estate being the property owned by Maddox and under a long lease to the Corporation, which lease was terminated and cancelled by the parties on said date. The Pickrick Corporation went out of the restaurant business on August 13th and since that time its business has been the sale of novelties to all persons, including the sale of axe handles. It occupies a portion of the same premises previously occupied, and pays rent to Maddox who, in turn, leased from the corporation its restaurant equipment.

From the above it appears that defendant Maddox, through previously conducting a restaurant business on these premises as President of Pickrick Corporation, did—after said injunction—the same business on the same premises, but did so as an individual and not as an officer and agent of the corporation. It also appears the corporation, with Maddox as its president and sole stockholder, is also occupying a part of the same premises as theretofore, and is conducting the business of selling novelties. Under these circumstances the Court finds that the corporation itself continued to be subject to the injunctions of this Court, which covered not only

the "successors" of the defendants, but also "all persons in active concert or participation with them." Particularly is this true where it appears, as in this case, that the changes in the methods of operations were made with the intent and purpose of evading the injunctive Orders of this Court.

(2) The evidence is overwhelming to the effect that on August 11th, August 13th, September 26, 1964, and on January 29, 1965, a number of Negroes (including the plaintiffs) were refused service at the restaurant in question by Lester Maddox and his employees. This refusal is not only admitted by defendant Maddox, but he divulged, with great feeling, that he will never allow these plaintiffs to be served in his restaurant, nor allow any "integrationists" to be therein served.

In responses filed February 1, 1965 defendants allege that upon the opening of the Lester Maddox Cafeteria signs were posted at the entrance and elsewhere within the same as follows:

> "NOTICE: I do not offer to serve either (1st) integrationists, nor (2) interstate travelers, regardless of race, color, creed or national origin. A person entering this restaurant for service will be considered as representing to me that such person is neither an integrationist nor an interstate traveler. If such representation is believed to be false, service will be refused. Lester Maddox, Owner, Lester Maddox Cafeteria."

The response alleges that the policy of the Pickrick Corporation in refusing services to members of the Negro race on the ground of race alone, has not been continued by Lester Maddox, but that "Lester Maddox gives notice that he will never knowingly serve an in-

tegrationist in his cafeteria, whatever may be the race, color, religion or national origin of such integrationist. Lester Maddox terms any person an integrationist who holds the political belief that the Federal government has, or should have, the power to deprive him of his inalienable and constitutional rights to be free from having to render personal services to any other person who he objects to serving" (see Response, pages 5 & 6). The response admits that when plaintiffs, in company with one Charles Edward Wells, Sr., appeared at the cafeteria on September 28th they were refused service, Maddox stating that he knew them to be integrationists, and he requested them to leave his premises. Defendants aver that Title Two of the Civil Rights Act of 1964 is not applicable to them because such discrimination as is practiced "is not upon the ground of race, color, religion or national origin", but "upon the ground of the political beliefs and ideas espouses and promoted by integrationists, which are exceedingly obnoxious to him, and with whom he does not desire to associate regardless of the race, color, religion or national origin of such persons."

This Court finds, however, that defendants have, as alleged, been excluding members of the Negro race because of their race and not because of their being "integrationists." It is true that Maddox has also excluded several white "integrationists" and he vows he would not permit certain prominent white citizens of this community to be served at his restaurant.

As shown by the depositions of a large number of non-residents of the state, it appears they were not questioned at this restaurant regarding their views on integration, and they were served. Defendants' contention that interstate travelers were not served, and that

no integrationists were served, is not borne out by the evidence.

Assuming, however, that defendants' policy of excluding customers was based upon their political beliefs and not upon race or color, the defendants go further and by the testimony of Lester Maddox, himself, state that any person who seeks service in the restaurant on the basis of the Civil Rights Act of 1964 would be an integrationist and would not be served. To sustain that defense would create an anomaly heretofore unheard of: The beneficiaries under a certain law would be denied the rights given thereunder because they insisted upon its provisions.

CONCLUSIONS OF LAW.

(1) This Court has jurisdiction of this cause and jurisdiction over Lester G. Maddox and the Pickrick, Inc., as defendants herein.

(2) Both the Pickrick, Inc. and Lester G. Maddox are bound by the terms of the permanent injunction entered in this case on September 4, 1964. As Lester G. Maddox is named as an individual in the action and in the injunction, the Court cannot sustain the contentions of defense counsel that he is now acting in a different capacity and therefore not subject to the injunction. Whether acting for a corporation or only for himself, he is still subject to the injunction which governs his own actions. Particularly is this true when his activities are done in connection with the same restaurant and upon the same premises involved in the injunction.

(3) As to the Pickrick, Inc. there could be some doubt as to whether or not it is subject to charges of contempt of court under the facts. However, no cases

have been cited to this Court to the effect that a corporation itself may no be guilty of contempt of court. Defendant Lester Maddox is the president and sole stockholder of the corporation, and his acts in behalf of the corporation are imputed to it. The sole business of the corporation at this time is the sale of novelties, and this business is operated in connection with the operation of the restaurant. Its customers are primarily those who patronize the restaurant. Even under federal criminal statutes,

> "whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal." *See Criminal Rule No. 2.*

There is authority to the effect that:

> "Both under and apart from statute, the general and modern rule is that a corporation can be guilty of contempt as well as an individual, and it may be fined or its property sequestered therefor." 17 C.J.S. p. 93.

This is certainly true when the president of the corporation is the sole stockholder and the acts complained of are acts within the charter powers of the corporation.

(4) This is a civil contempt and not a criminal contempt (the latter under the law requiring a jury trial). The only purpose of a civil contempt is to obtain future compliance of the injunctions of this Court. Where "such contempt is continuing" the respondent may be required to pay a fine to the United States of a designated sum for each day that the contempt continues." See *United States of America vs. State of Mississippi, et al* (5 Cir.) 313 F.2d 534, September 29, 1962. Our

courts have the duty to see that their orders are obeyed and not flagrantly ignored.

"There can be no free society without law administered through an independent judiciary. If one man can be allowed to determine for himself what is law, every man can. That means first chaos, then tyranny." See *United States vs. Mine Workers*, 330 U.S. 258, concurring opinion.

It is their rule that a fine may be imposed,

"to coerce the defendant into compliance with the court's order." (See p. 303)

It is the duty of the Court to

"consider the character and the magnitude of the harm threatened by continued contumacy and the probable effectiveness of any suggested sanction in bringing about the result desired."

(5) This Court cannot at this time entertain various attacks made on the constitutionality of the Civil Rights Act of 1964. Under the law, all persons must obey injunctions issued by the courts, even though they may subsequently be reversed. In the instant case, however, the Civil Rights Act of 1964 has been held valid by the United States Supreme Court in regard to Title Two thereof, which applies to operators of restaurants.

(6) It is a well known fact that the Civil Rights Act of 1964, particularly as to the public accommodations provisions, met with overwhelming opposition in this state. Since the Act, however, has been held valid by the Supreme Court of the United States all of the hotels and restaurants in the Atlanta area, as far as this Court is aware, have accepted it as the law and are in compliance with it, and few, if any, incidents of breach of the peace have occurred of late except at the

Pickrick Restaurant (now the Lester Maddox Cafeteria). Defendant Maddox at the trial insisted that enforcement of this statute is virtually ruining his business. Testimony of his accountant, however, shows that although there has been a considerable monthly decrease in the revenues of the Lester Maddox Cafeteria, other hotels and restaurants have been doing a profitable business. This Court is compelled to fix a penalty for future violations by the defendants of the injunction granted by the three-judge court which will be effective. The Court realizes that the vehement protestations of defendant Maddox on the trial that he will not serve these plaintiffs in the future, will make it difficult for said defendant to comply. Should the continued refusal of defendant Maddox to comply with the law and the Orders of the Court cause him in the future to lose the fruits of his endeavors and the assets which he has accumulated under our free enterprise system, it would be a matter of deep regret to all, but the responsibility for his losses would rest upon his own shoulders. The spirit of lawlessness in this country which is giving deep concern to all of our thoughtful citizens, is in the minds of our young people greatly augmented when their elders flagrantly violate the laws of the land and the orders of the courts. Our laws must be enforced or a state of anarchy will follow.

(7) Order of Court in accordance herewith will be entered in this case.

FRANK A. HOOPER
Judge

(Filed in Clerk's Office Feb 5 1965)

APPENDIX
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION.

GEORGE WILLIS, JR.
WOODROW T. LEWIS
ALBERT L. DUNN,
Plaintiffs

ROBERT F. KENNEDY,
Attorney General of the
United States,
Intervenor

vs

THE PICKRICK, a Corporation,
and LESTER G. MADDOX,
Defendants

CIVIL
ACTION
NO. 9028

ORDER OF CIVIL CONTEMPT.

Based upon Findings of Fact and Conclusion of Law filed in this case IT IS HEREBY ORDERED:

(1) Defendants Lester G. Maddox and The Pickrick, Inc. are in civil contempt of the permanent injunction of this Court of September 4, 1964, and will remain in civil contempt of such injunction until they shall have purged themselves of such contempt as hereinafter provided:

Defendants may purge themselves by adopting and pursuing a policy of serving all persons who present themselves for service at the restaurant known as "Les-

ter Maddox Cafeteria" without discrimination or segregation on the ground of race, color, religion or national origin. Defendants, if continuing to refuse to serve Negroes, will not be purged of contempt of court even though it should appear that defendants also are refusing to serve persons because they are travelers in interstate commerce, or because they are "integrationists", or because of any political beliefs of such persons, or because such persons, in seeking service, may be doing so because of provisions of the Civil Rights Act of 1964.

If defendants, or their employees or agents, shall refuse service to any person in violation of the foregoing, all defendants participating therein shall pay a fine of Two Hundred ($200.00) Dollars for each day that the restaurant or cafeteria has been open for business from the date of this Order to the date of such refusal, and all fines so imposed shall be cumulated for purposes of payment and collection.

Such final fines shall continue to accumulate at the above date and for each day as long as defendants, or either of them, either directly or indirectly, operate said restaurant or cafeteria, or until such time as the defendants shall subscribe and file in this Court a statement that they will henceforth serve all persons who present themselves for service at said restaurant or cafeteria, without discrimination or segregation on the ground of race, color, religion or national origin, pursuant to this Order of Court. Such fines shall then cease to accumulate as to any defendant signing and filing such a paper with this Court. If, following such filing, any defendant shall again refuse service to any person in violation of this Order, such statement previously filed shall be deemed a nullity, and any fines that

would otherwise have accumulated except for such statement shall thereupon become due and payable.

Defendants may upon the expiration of sixty (60) days following the entry of this Order apply to the Court for an Order declaring them to be purged of civil contempt.

Costs of this proceeding shall be charged against defendants.

This 5th day of February, 1965.

FRANK A. HOOPER
United States District Judge

PROOF OF SERVICE

I, William G. McRae, one of the attorneys for Lester G. Maddox, appellant herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that, on the 29th day of June, 1965, I served copies of the foregoing Jurisdictional Statement on the several parties thereto, as follows:

1. On the United States, by leaving a copy thereof at the office of Charles L. Goodson, Esq., United States Attorney for the Northern District of Georgia, at Room 402, Federal Building, Atlanta, Georgia, and by mailing a copy in a duly addressed envelope, with air mail postage prepaid, to The Solicitor General, Department of Justice, Washington 25, D.C.

2. On the plaintiffs, George Willis, Jr., Woodrow T. Lewis and Albert L. Dunn, by mailing a copy in a duly addressed envelope, with first class postage prepaid, to their attorney of record William H. Alexander, Esq., 959-1/2 Hunter Street, N.W., Atlanta, Georgia 30314.

/s/ WM. G. McRAE
William G. McRae
Attorney for Appellant

Post Office Address:

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